

NOVEMBER 1, 2007

MICHAEL W. DOBBINS  
CLERK, U.S. DISTRICT COURT

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

JUDGE KENNELLY  
MAGISTRATE JUDGE COX

LIONEL FRANKLIN,

COMPLAINT

Plaintiff,

v.

Civil Action No.

07 C 6197

LDG FINANCIAL SERVICES, LLC,  
LVNV FUNDING, LLC,

JURY TRIAL DEMANDED

Defendants.

COMPLAINT

**I. INTRODUCTION**

1. This action is brought by Plaintiff Lionel Franklin for statutory damages against Defendant LDG Financial Services, LLC, and LVNV Funding, LLC, for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. (hereinafter referred to as "FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive, and unfair practices.

**II. JURISDICTION**

2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d) and 28 U.S.C. § 1331. Venue is proper in this district as all relevant events took place here.

**III. PARTIES**

3. Plaintiff Lionel Franklin is an individual who resides in Calumet City, Illinois.
4. Mr. Franklin is a consumer as defined by the FDCPA, 15 U.S.C. § 1692a(3).
5. Defendant LDG Financial Services, LLC (hereinafter referred to as "LDG") is a

corporation organized under the laws of the State of Georgia located at 4553 Winters Chapel Road, Atlanta, Georgia.

6. LDG is licensed by the State of Illinois as a Collection Agency.

7. LDG is engaged in the collection of debts from Illinois consumers using the mail and telephone.

8. LDG regularly attempts to collect consumer debts alleged to be due to another.

9. LDG was and is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

10. Defendant LVNV Funding LLC (hereinafter referred to as "LVNV") is a corporation organized under the laws of the State of Delaware with its principal office located at 625 Pilot Road Suite 2, Las Vegas, Nevada.

11. LVNV is engaged in the collection of debts from Illinois consumers using the mail and telephone.

12. LVNV regularly purchases defaulted debts.

13. LVNV regularly attempts to collect consumer debts alleged to be due to another.

14. LVNV was and is a "debt collector" as defined by the FDCPA, 15 U.S.C. §1692a(6).

#### **IV. FACTUAL ALLEGATIONS**

15. Mr. Franklin incurred an alleged debt to Citibank ("the Debt") for personal purchases made on a credit card.

16. The Debt was incurred for personal, family, or household purposes, *i.e.*, personal purchases with a credit card.

17. At some point after default, LVNV purchased or otherwise obtained the Debt.

18. On or about September 13, 2007, LDG obtained the Debt.

19. On or about September 13, 2007, LDG arranged for the preparation and transmittal of a letter to Mr. Franklin at his residence in an attempt to collect the Debt. LDG's September 13, 2007, letter is attached hereto as Exhibit A.

20. Exhibit A states:

Client:	LVNV
Reference # :	4621200080714634
Balance Owed:	\$1,843.21

Dear Lionel Franklin

This letter is to notify you that the above referenced creditor has placed your account with our office of collections.

21. Exhibit A provides two non-facsimile telephone numbers:

Toll Free	877-290-9573
Local	678-225-1111

22. On September 19, 2007, at 8:01am, Mr. Franklin received a voicemail from telephone number 678.225.1111 on his cellular telephone. The voicemail appeared to begin in the middle of the substance of the voicemail. The voicemail stated, "...9573 in regards to a personal business matter in our office. Again this message is for Lionel Franklin. Please call 1.877.290.9573. This is a message from a professional debt collector. Thank you, have a good day."

23. On September 19, 2007, at 5:06pm, Mr. Franklin received a voicemail from telephone number 678.225.1111 on his cellular telephone. The voicemail stated, "Lionel Franklin this is Ms. Ford. Return the call. The number is 877.290.2680 and my extension is 1239. Very

important I speak with you this evening. I am in my office until 9pm.”

24. On September 19, 2007, at 6:09pm, Mr. Franklin received a voicemail from telephone number 678.225.1111 on his cellular telephone. The voicemail appeared to begin in the middle of the substance of the voicemail. The voicemail stated, “...9573 in regards to a personal business matter in our office. Again this message is for Lionel Franklin. Please call 1.877.290.9573. This is a message from a professional debt collector. Thank you, have a good day.”

25. The three telephone messages left by LDG on September 19, 2007, were communications made in an attempt to collect a debt.

26. The telephone number 877.290.9573 is answered by LDG.

27. The telephone number 877.290.2680 is answered by LDG.

28. The telephone number 678.225.1111 is answered by LDG.

29. None of the telephone messages left by LDG on September 19, 2007, meaningfully disclosed LDG as the identity of the caller.

30. The 5:06pm telephone message left by LDG on September 19, 2007, did not disclose that the communication was from a debt collector.

31. It was not “very important” that Ms. Ford speak with Mr. Franklin by 9pm on September 19, 2007.

32. The actions of LDG are imputed to LVNV.

**V. COUNT ONE – FAIR DEBT COLLECTION PRACTICES ACT**

33. Plaintiff repeats, realleges, and incorporates by reference the foregoing paragraphs.

34. Defendants' violations of the FDCPA include, but are not limited to
- A. engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt in violation of 15 U.S.C. § 1692d;
  - B. causing a telephone to ring repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number in violation of 15 U.S.C. § 1692d(5);
  - C. placing telephone calls without meaningful disclosure of the caller's identity in violation of 15 U.S.C. § 1692d(6);
  - D. using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer in violation of 15 U.S.C. §§ 1692e and e(10);
  - E. failing to disclose in communications subsequent to the initial communication with the consumer that the communication is from a debt collector in violation of 15 U.S.C. § 1692e(11); and
  - F. creating a false sense of urgency in violation of 15 U.S.C. § 1962e.
35. As a result of LDG's and LVNV's violations of the FDCPA, Plaintiff is entitled to an award of statutory damages, costs and reasonable attorney fees.

**VI. REQUEST FOR RELIEF**

WHEREFORE, Plaintiff Lionel Franklin requests that judgment be entered in his favor against Defendant LDG Financial Services, LLC, and LVNV Funding, LLC. for:

- A. Statutory damages pursuant to 15 U.S.C. § 1692k(a)(2);
- B. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k(a)(3);  
and
- C. For such other relief as the Court may find to be just and proper.

**VII. JURY DEMAND**

Plaintiff Lionel Franklin hereby demands that this case be tried before a Jury.

s/ Craig M. Shapiro  
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